

## **REMARKS**

Claims 1-2, 4-7 and 9-10 were examined and reported in the Office Action. Claims 1-2, 4-7 and 9-10 are rejected. Claims 1 and 7 are amended. Claims 1-2, 4-7 and 9-10 remain.

Applicant requests reconsideration of the application in view of the following remarks.

### **I. 5 U.S.C. § 103(a)**

A. It is asserted in the Office Action that claims 1, 2, 4, 7 and 9 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over U. S. Patent No. 6,683,855 issued to Bordogna et al. ("Bordogna") in view of U. S. Patent No. 7,028,241 issued to Blair et al. ("Blair") and further in view of U. S. Patent No. 4,268,722 issued to Little et al. ("Little") and further in view of U. S. Patent Publication No. 2004/0156325 naming Perkins et al. ("Perkins"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974))." "*All words in a claim must be considered* in judging the patentability of that claim against the prior art." (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's claimed invention asserts that the OCH layer executes the important function of recovering the frame of the received signal. If the frame of the received signal cannot be recovered, it is impossible to monitor each layer. That is, determination of defects of OTUk and ODUk layers that are upper layers becomes meaningless when a defect is generated in the event of recovering the frame in the OCH layer. Thus, the defect and maintenance signal detector of the present invention processes the defect mask of another layer to be false so as to ignore processing of a generated interrupt in the case that a defect of the optical channel layer is detected.

Bordogna discloses error correction schemes for high speed optical transmission systems. Blair discloses data frame structures used in optical transport networks. Little discloses a telephone communications system incoming pulse-code-modulation channels can be masked using a mask bit. And, Perkins discloses a digital wrapper frame structure including an ODU layer, OPU layer and OUT layer.

Even if Bordogna, Blair, Little and Perkins are combined, the resulting invention would still not teach, disclose or suggest Applicant's amended claim 1 limitations of "the defect and maintenance signal detector processes the defect mask of another layer to be false so as to ignore processing of a generated interrupt in the case that a defect of the optical channel layer is detected" or Applicant's amended claim 7 limitations of

defect and maintenance functions of the digital wrapper controller only operate when an interrupt signal is generated by the digital wrapper, and the calling the processor comprises: setting a defect mask for each layer and processing an interrupt of each layer when the defect mask is true, and the called processor detecting comprises processing the defect mask of another layer to be false so as to ignore processing of a generated interrupt in the case that a defect of the optical channel layer is detected.

Since neither Bordogna, Blair, Little, Perkins, and therefore, nor the combination of the four, teach, disclose or suggest all the limitations of Applicant's amended claims 1 and 7, Applicant's amended claims 1 and 7 are not obvious over Bordogna in view of Blair in further view of Little in further view of Perkins since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from amended

claims 1 and 7, namely claims 2 and 4, and 9, respectively, would also not be obvious over Bordogna in view of Blair in further view of Little in further view of Perkins for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claims 1, 2, 4, 7 and 9 are respectfully requested.

**B.** It is asserted in the Office Action that claim 5 is rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Bordogna in view of Blair and further in view Little, and further view of Perkins, and further in view of U. S. Patent No. 7,028,231 issued to Tezuka ("Tezuka"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant's claim 5 indirectly depends on amended claim 1. Applicant has addressed Bordogna in view of Blair in view of Little and further in view of Perkins regarding claim 1 above in section I(A).

Tezuka discloses a performance monitoring technique for large capacity and long distance transmission requiring error correction processing.

Even if Bordogna, Blair, Little, Perkins and Tezuka were combined, the resulting invention would still not teach, disclose, suggest, or even mention the limitations contained in Applicant's amended claim 1 of "the defect and maintenance signal detector processes the defect mask of another layer to be false so as to ignore processing of a generated interrupt in the case that a defect of the optical channel layer is detected" or Applicant's amended claim 7 limitations of

defect and maintenance functions of the digital wrapper controller only operate when an interrupt signal is generated by the digital wrapper, and the calling the processor comprises: setting a defect mask for each layer and processing an interrupt of each layer when the defect mask is true, and the called processor detecting comprises processing the defect mask of another layer to be false so as to ignore processing of a generated interrupt in the case that a defect of the optical channel layer is detected.

Since neither Bordogna, Blair, Little, Perkins, Tezuka, and therefore, nor the combination of the five, teach, disclose or suggest all the limitations of Applicant's amended claim 1, Applicant's amended claim 1 is not obvious over Bordogna in view of Blair in further view of Little, in further in view of Perkins and in further view of Tezuka since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claim that indirectly depends from amended claim 1, namely claim 5, would also not be obvious over Bordogna in view of Blair and further in view of Little in further view of Perkins in further view of Tezuka for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claim 5 are respectfully requested.

C. It is asserted in the Office Action that claims 6 and 10 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Bordogna in view of Blair, in further view of Little in further view of Perkins and further in view of U. S. Patent No. 6,725,032 issued to Sheridan et al. ("Sheridan"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant's amended claim 6 directly depends on amended claim 1. Applicant has addressed Bordogna in view of Blair, Little and Perkins regarding claim 1 above in section I(A). Applicant's amended claim 10 directly depends on amended claim 7. Applicant has addressed Bordogna in view of Blair, Little and Perkins regarding claim 7 above in section I(A).

Sheridan discloses cell network configuration and management.

Even if Bordogna, Blair, Little, Perkins and Sheridan were combined, the resulting invention would still not teach, disclose, suggest, or even mention the limitations contained in Applicant's amended claim 1 limitations of "the defect and maintenance signal detector processes the defect mask of another layer to be false so as to ignore processing of a generated interrupt in the case that a defect of the optical channel layer is detected" or Applicant's amended claim 7 limitations of

defect and maintenance functions of the digital wrapper controller only operate when an interrupt signal is generated by the digital

wrapper, and the calling the processor comprises: setting a defect mask for each layer and processing an interrupt of each layer when the defect mask is true, and the called processor detecting comprises processing the defect mask of another layer to be false so as to ignore processing of a generated interrupt in the case that a defect of the optical channel layer is detected.

Since neither Bordogna, Blair, Little, Perkins, Sheridan, and therefore, nor the combination of the five, teach, disclose or suggest all the limitations of Applicant's amended claims 1 and 7, Applicant's amended claims 1 and 7 are not obvious over Bordogna in view of Blair, in view of Little in further view of Perkins in further view of Sheridan since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly depend from amended claims 1 and 7, namely claims 6, and 10, respectively, would also not be obvious over Bordogna in view of Blair, in view of Little in further view of Perkins for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claims 6 and 10 are respectfully requested.

**CONCLUSION**

In view of the foregoing, it is submitted that claims 1-2, 4-7 and 9-10 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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Dated: October 9, 2007

By: \_\_\_\_\_

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.

\_\_\_\_\_  
Jean Svoboda

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Date: October 9, 2007